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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 16 1995

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Amendment of the Commission's) ET Docket No. 95-183
Rules Regarding the 37.0-38.6 GHz) RM-8553
and 38.6-40.0 GHz Bands)
)
Implementation of Section 309(j) of) PP Docket No. 93-253
the Communications Act -- Competitive)
Bidding, 37.0-38.6 GHz and 38.6-40.0)
GHz)

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COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation ("GTE"), on behalf of its telephone and wireless service companies and by its attorneys, hereby submits its comments on the Commission's Notice of Proposed Rule Making in the above-captioned docket.¹ GTE affiliates hold authorizations in the personal communications service ("PCS") and the cellular service, and thus GTE is interested in the possible deployment of 37.0-40.0 GHz frequencies in support of those operations. GTE generally supports the *Notice's* proposals to allocate additional spectrum in the 37.0-38.6 GHz band for fixed point-to-point microwave operations, to conform the technical, operational, and application rules for all of the 37.0-40.0 GHz band, and to ensure that future licensees are seriously interested in and qualified to construct 37.0-40.0 GHz facilities.

¹ FCC 95-500 (Dec. 15, 1995) ("*Notice*").

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I. ADDITIONAL SPECTRUM IN THE 37.0-40.0 GHZ BAND IS NEEDED TO SUPPORT WIRELESS TELECOMMUNICATIONS SYSTEMS

The *Notice* concludes that "the public interest will be served by developing service rules that will permit the use of the 37 GHz band -- in addition to the 39 GHz band -- for point-to-point operations."² The Commission notes the need for the 37 GHz band to support broadband PCS infrastructure as well as cellular and other commercial and private mobile radio operations.³

GTE supports the Commission's conclusion that additional spectrum in the 37.0-40.0 GHz band is needed for fixed point-to-point microwave operation, licensed on a geographic basis. GTE's own analysis indicates that 37.0-40.0 GHz band frequencies can provide important backhaul links in support of broadband PCS operations.⁴ Licensed on the basis of geographic area, these frequencies can be timely and efficiently deployed in conjunction with the construction of PCS facilities (for which separate, individual site authorizations are not required). This will enhance the ability of PCS operators to expedite the provision of service to the public.⁵

² *Notice*, ¶ 13.

³ *Id.*

⁴ 37.0-40.0 GHz frequencies also can usefully support cellular operations as well, so long as the cell sites to be interconnected are not too distant. This constraint on length of path is a function of the frequency band itself.

⁵ To be most useful in block A and B PCS systems, it is important that the Commission promptly complete action on this rulemaking and proceed with licensing of the 37.0-40.0 GHz frequencies.

As the Commission has recognized,⁶ pre-existing licenses and applications in the 39 GHz portion of the band effectively restrict availability of these frequencies to other entities, whether to be used in support of PCS or for other purposes. Much of the 39 GHz band across the country is already licensed or the subject of pending applications. As discussed below, GTE urges the Commission to ensure that any future authorizations granted in the 37.0-40.0 GHz band -- whether pursuant to pending or future applications -- be granted only to those applicants intending to construct and operate facilities.

II. GTE SUPPORTS UNIFORM CHANNELIZATION PLANS AND SERVICE AREAS FOR ALL OF THE 37.0-40.0 GHZ BAND

The Commission has proposed to channel the 37 GHz band into fourteen 50 MHz paired channels with a separation of 700 MHz and four 50 MHz unpaired channels.⁷ This channel plan would be consistent with the channelization already in place in the 39 GHz band.⁸ The Commission also proposes to issue licenses based on Basic Trading Areas ("BTAs") for both the 37 and 39 GHz bands.⁹

GTE supports the adoption of uniform channelization and service areas for all of the 37.0-40.0 GHz band. The proposed channels seem to be appropriate for accommodating

⁶ *E.g.*, Notice, ¶ 13.

⁷ Notice, ¶¶ 16, 19.

⁸ *Id.*

⁹ Licensing in the 39 GHz band based on BTAs would be subject to a transition procedure in light of the existing self-defined license areas. *See id.*, ¶¶ 104-108.

licensee needs, will expedite the availability of equipment for the newly channelized band, and should result in lower equipment costs.

GTE also concurs in the Commission's proposal that 37.0-40.0 GHz licensees be permitted to subdivide their channel blocks as deemed appropriate to meet their own needs.¹⁰ The Commission aptly notes that "the most flexible and efficient use of this spectrum would come from authorizing licensees to freely subdivide these channel blocks as they see fit."¹¹ So long as licensees do not cause interference to other 37.0-40.0 GHz operators, they should be afforded maximum flexibility to design their operations most efficiently to meet their own and customer needs.

Finally, GTE agrees that the Commission's rationale for adopting BTAs as the basis for issuing 37.0-40.0 GHz licenses is sound, so long as any necessary licensing authorization from Rand McNally can be obtained on a reasonable basis.¹² What is most important, however, is that the Commission license the 37.0-40.0 GHz frequencies on the basis of geographic areas, rather than on an individual point-to-point basis. Use of a defined service area, in which licensees are able to deploy point-to-point links as they best determine, greatly enhances the ability of licensees to respond most effectively to customer needs.

¹⁰ *Id.*, ¶ 20.

¹¹ *Id.*

¹² *See id.*, ¶ 23.

The *Notice* queries about available methods "to meet the needs of those who might desire individual links, smaller geographic service areas, or smaller spectrum blocks."¹³ GTE urges the Commission to proceed with licensing of the proposed channel blocks and uniform service areas, and then permit licensees to engage in geographic partitioning and spectrum disaggregation, without any limitation on the nature of the entities eligible to obtain partitioned service areas or disaggregated blocks of spectrum (other than meeting the Commission's basic eligibility criteria). Both alternative mechanisms for subdividing the proposed channel blocks and service areas will permit licensees to manage their spectrum in the most efficient manner possible, and should enhance the ability of entities interested in obtaining more limited 37.0-40.0 GHz capacity to meet their needs. This flexibility appears to be most consistent with the Commission's goals under the Communications Act and its recent efforts to afford licensees the ability to meet public needs in a flexible manner.¹⁴

¹³ *Id.*, ¶ 24.

¹⁴ The Commission has proposed similar flexibility in recent proposed rules for specialized mobile radio systems. *See Amendment of Part 90 of the Commission's Rules To Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, FCC 95-501 (Dec. 15, 1995), ¶¶ 259-268 (First Report and Order, Eighth Report and Order, and Second Further Notice of Propose Rule Making).

III. THE COMMISSION'S RULES AND POLICIES SHOULD PROMOTE THE GRANTING OF AUTHORIZATIONS TO INTERESTED APPLICANTS WITH A VALID INTEREST IN DEPLOYING FACILITIES IN THE 37.0-40.0 GHZ BAND

The Commission has frozen the acceptance of applications for 39 GHz authorizations (with the exception of transfer of control and assignment applications) and determined that it will process pending applications "if (1) they were not mutually exclusive with other applications at the time of the Bureau's *Order*, and (2) the 60-day period for filing mutually exclusive applications expired prior to November 13, 1995."¹⁵ For all other pending applications, the Commission has decided to hold processing in abeyance and will make a determination at the conclusion of this proceeding whether to process or return the applications.¹⁶

In considering its treatment of these applications, as well as promulgating rules to cover future 37.0-40.0 GHz band applications, GTE urges the Commission to ensure that future licenses are awarded to those entities that are serious in their intent to construct and operate facilities, and to do so while efficiently using the spectrum licensed to them. Adoption of competitive bidding as the method for awarding future licenses in the 37.0-40.0 GHz band will aid substantially in achieving that goal. As the Commission has repeatedly found in adopting auction rules for services, competitive bidding requires applicants to put up money to obtain the authorization as an initial matter, thus helping to deter filings by

¹⁵ *Notice*, ¶¶ 121-122.

¹⁶ *Id.*, ¶ 123.

applicants lacking a valid interest in deploying facilities pursuant to a radio authorization. Similarly, auctions help to ensure that authorizations are awarded to the entities that most highly value the spectrum.

Keeping these considerations in mind, GTE urges the Commission either: (1) to dismiss the pending 39 GHz applications that it is holding in abeyance and open a new application filing window for such frequencies and licensing areas; or (2) retain those applications on file and permit other interested parties to file competing applications that will be processed pursuant to an adopted competitive bidding policy and corresponding rules for 39 GHz authorizations. Either method will help to ensure that all interested parties are permitted to seek available authorizations in the 37.0-40.0 GHz band, and that licenses are awarded to entities with serious intent to implement point-to-point operations pursuant to the granted authorizations.

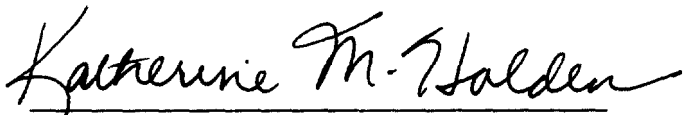
IV. CONCLUSION

GTE endorses the Commission's efforts to make available additional spectrum in the 37.0-40.0 GHz band. Adoption of uniform channelization and service areas rules for both the 37 GHz and 39 GHz portions of the band will facilitate use of those frequencies by interested parties and enhance deployment of services supported by operations in those bands. Awarding licenses by means of competitive bidding, with an opportunity for all interested parties to seek authorizations in the 39 GHz band as well as the 37 GHz band, will promote

the most efficient use of the spectrum by those parties placing the highest value on holding authorizations in the 37.0-40.0 GHz frequencies.

Respectfully submitted,

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